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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,399	04/07/2005	Miyuki Morita	018765-212	5305
21839 7590 04/05/2007 BUCHANAN, INGERSOLL & ROONEY PC POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			EXAMINER KUMAR, PREETI	
			ART UNIT 1751	PAPER NUMBER

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/530,399

Applicant(s)

MORITA ET AL.

Examiner

Preeti Kumar

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-21 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 4/7/05, 2/6/06.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Non-Final Rejection

1. Claims 1-21 are pending. Claims 1, 2, and 11 are independent.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 5 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 5, the word "means" is preceded by the word(s) "...wherein the hydrogen peroxide is supplied by at least one means..." in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

One acceptable form of alternative expression, which is commonly referred to as a Markush group, recites members as being "selected from the group consisting of A, B and C." See *Ex Parte Markush*, 1925 C.D. 126 (Comm'r Pat. 1925). Examiner suggests, for example, "The method according to claim 1, wherein the hydrogen peroxide is selected from the group consisting of a hydrogen peroxide precursor, ..."

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Damhus et al. (WO 95/33039) in view of Johnson et al. (US 5,370,770).

Damhus et al. teach a dye transfer inhibitory detergent composition suitable for laundry comprising a peroxidase and accelerator and a detergent. See abstract.

Damhus et al. teach a peroxidase system in which the peroxidase is togener with hydrogen peroxide or a source of hydrogen peroxide. See page 2,ln.22-23.

Damhus et al. teach suitable peroxidases are known from microbial, plant and animal origins and preferably teach a soy bean peroxidase. See page 4,ln.20 and 22.

Damhus et al. teach hydrogen peroxide sources are chloride peroxidases and bromide peroxidases. See page 5,ln.19. Damhus et al. further teach sources of hydrogen peroxide are well known perborates and percarbonates. See page 9,ln.11-12.

Damhus et al. teach the utility of an accelerator and surfactants. See page 8, ln.13, and page 9, ln.16.

Damhus et al. illustrate on page 20, a method of washing a cotton dyed with Chicago Sky Blue 6B textile dye in the presence of a peroxidase/peroxide concentrate.

Damhus et al. teach the utility of a soybean peroxidase and do not specifically teach a rice peroxidase acting on the washing liquor in the presence of a hydrogen peroxide as recited by the instant claims 1, 2, and 11.

Johnson et al. teach the equivalence of soybean peroxide to the use of peroxidases such as peroxidases from other legumes, horseradish peroxidase, rice peroxidase and peroxidases from malvaceous plants like cotton. See col.2,ln.65-68. In col.3,ln.5-8, Johnson et al. teach that the peroxidase may be extracted from the hulls.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made to arrive at the claimed fabric treatment detergent comprising rice peroxidase as recited by claims 1, 2, and 11, with a reasonable expectation of success and similar results, because the teachings of Damhus et al. in view of Johnson et al. provide motivation to one of ordinary skill to replace the soybean peroxidase of Damhus et al. with the equivalent rice peroxidase as taught by Johnson et al. One of ordinary skill in the art would have been motivated to combine the teachings of Damhus et al. with that of Johnson et al. since both references teach the preferential utility of soybean peroxidase in a composition/method for controlling transfer of dyes and Johnson et al. teach the equivalence of soybean peroxidase to rice peroxidase in general.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Preeti Kumar whose telephone number is 571-272-1320. The examiner can normally be reached on M-F 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas Mc Ginty can be reached on 571-272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Preeti Kumar PK.
Examiner
Art Unit 1751

PK


DOUGLAS MCGINTY
SUPERVISORY PATENT EXAMINER
1751